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SENSITIVE

DEPARTMENT FOR WHA/CEN, WHA/PPC SMILLER, G/TIP, G ACBlank, G/TIP
BFLECK, INL, DRL, PRM

E.O. 12958: N/A

TAGS: [ELAB](#) [KCRM](#) [KFRD](#) [KWMN](#) [PHUM](#) [PREF](#) [SMIG](#) [KTIP](#) [ASEC](#) [CS](#)
SUBJECT: PART 2 OF 2: COSTA RICA'S 9TH ANNUAL TRAFFICKING IN
PERSONS (TIP) REPORT

REF: A) 08 SAN JOSE 911 B) 08 STATE 132759 C) 08 SAN JOSE 194 D)
08 SAN JOSE 833 E) 08 STATE 93829 F) SAN JOSE 0040

¶1. (U) This cable is Part 2 of 2 and continues section numbering
from Part 1 (septel), in according with TIP reporting instructions.

III. INVESTIGATION AND PROSECUTION - CONTINUED

¶E. LAW ENFORCEMENT STATISTICS:

(1) (SBU) JUDICIAL BRANCH: The Judicial Branch (Prosecutor's
Office) has not yet provided Post with statistical information nor
answers for the TIP Report, though personnel stated they were
working on it. If/when Post receives information from the Judicial
Branch, we will forward septel.

(2) (U) By the end of the reporting period, the Judicial Branch had
not released its official statistics for 2008 (the report is usually
published during the second semester each year). Official statistics
for 2007 from its website were as follows:

Number of 2007 cases received by the Prosecutor's Office:

--Trafficking in persons ("Trata de personas") 9
--Pandering ("Proxenetismo") 92
--Aggravated pandering ("Proxenetismo Agravado") 24
--Remunerated sexual relations with minors ("Relaciones sexuales
remuneradas con menores") 99
--Attempted Remunerated sexual relations with minors ("Relaciones
sexuales remuneradas con menores-tentativa de") 20

Number of sentences imposed during 2007:

--Trafficking in persons ("Trata de personas") 2
--Pandering ("Proxenetismo") 2
--Aggravated pandering ("Proxenetismo agravado") 1
--Remunerated sexual relations with minors ("Relaciones sexuales rem
con menores de edad") 3
--Sexual relations with minors ("Relaciones sexuales con menores de
edad") 15

UNICEF reported that of the above nine trafficking cases in 2007,
the two above were sentenced and the other seven were absolved.

(3) (SBU) Please note that the 2008 Trafficking in Persons Report as
published, in the Costa Rica "Prevention" section, stated that the
government prosecuted 77 cases relating to commercial sexual
exploitation of minors (Ref C). This was a mistake. Post's
information stated that 77 cases were "opened," not prosecuted.

(4) (U) According to the UNODC/ILANUD "Diagnostic of National and
Regional Capacities for the Criminal Prosecution of the Crime of
Trafficking in Persons" report, which was undertaken in conjunction
with regional Prosecutors' Offices, in 2008 there were three cases
of trafficking reported and under investigation in the country, and
there was one sentence imposed.

(5) (U) Trafficking activities have sometimes been classified and tried as lesser crimes, such as pimping or sexual exploitation, due largely to the lack of updated TIP statutes in the country (Ref A). The early 2009 legislative changes should enhance the GOCR's ability to investigate and prosecute traffickers, which in turn should facilitate compilation of TIP law enforcement data. Currently, the National Institute for Children (PANI, Spanish acronym) gathers some data from the 911 emergency line.

(6) (U) As mentioned in Section I, the National Coalition, working with Save the Children and the non-profit Paniamor Foundation, undertook in 2008 the Fourth Geographical and Social Mapping of Trafficking of Children and Adolescents for Costa Rica. The purpose of defining trafficking routes is to better identify: TIP cases, where they occur, major internal and international TIP routes, and the factors that give rise to or facilitate TIP activities along those routes. Using special software that permits locating compiled information on a map, the Mapping project will help systemize data that is not found through formal channels but can shape and focus prevention programs.

F. SPECIALIZED TIP TRAINING:

(1) (U) During the reporting period, the Ministry of Public Security and/or the Migration Directorate, led by the National Coalition, trained or sensitized 973 police officers, immigration officials, immigration police officers, OIJ officers, national health system workers and others. Eighty percent of those were police officers from around the country. The government distinguishes between sensitivity training of eight hours or less (provided to 667 persons) and "training" of 16 hours or more (provided to 306 officials).

(2) (U) Additionally, UNICEF joined with the above government institutions, using educational materials developed in conjunction with the "No te Dejes Enganar" media campaign (see Section V), to train 50 community police officers and police instructors following a "train the trainer" approach (Ref A). The TIP theme was thus included in the National Police Academy curriculum in 2008, and TIP training will become a formal part of the Academy curriculum starting in 2009.

(3) (U) In August, the Ministry of Public Security held two joint training activities for Costa Rican and Nicaraguan police officers to improve bilateral institutional coordination. In 2008, IOM conducted two cross-border workshops in the northern zone (Los Chiles and Penas Blancas) in which immigration authorities, police and civil society from Costa Rica and Nicaragua participated.

(4) (U) The Coalition also conducted, together with eleven institutions, training on the Protocol for the Repatriation of Children Victims of Trafficking to Consular Officers and other officials involved in the issue. A total of five officers in the Costa Rican Consulates in Managua, Rivas and Chinandega (all in Nicaragua) received training.

G. INTERGOVERNMENTAL TIP COOPERATION:

(1) (U) In keeping with G/TIP's Recommended Long-Term Action Plan (Ref E) calling for more regional cooperative efforts, the GOCR hosted a regional conference of national anti-TIP Coalitions from November 10-12, 2008. Representatives attended from Mexico, Guatemala, Nicaragua, El Salvador, Honduras, Panama and the Dominican Republic. IOM and the ILO made presentations regarding international agencies and resources fighting TIP, and country delegations gave "best practices" presentations regarding their respective efforts and repatriation protocols (see also Section VI nomination for Best Practices).

(2) (U) Costa Rica participates in regional fora and conferences that deal with TIP issues, including the Regional Conference on Migration, the Central American Trafficking Network, and the Central American Integration System (SICA, Spanish acronym). In February 2009, Vice Minister Duran participated in a regional human smuggling conference in Mexico supported by G/TIP.

(3) (U) The National Coalition held two information-exchange seminars with officials from Nicaragua and Panama as part of its efforts to compile data for the above-mentioned 2008 Fourth Geographical and Social Mapping of Trafficking of Children and Adolescents for Costa Rica, conducted with Paniamor and Save the Children.

(4) (U) During the first 2009 work session of the Central American Council of Public Ministries, February 10-11, 2009, General Prosecutors from Central American countries gathered and discussed trafficking in persons and its relation to organized crime. Additionally, they were on hand for the release of UNODC/ILANUD's "Diagnostic of National and Regional Capacities for the Criminal Prosecution of the Crime of Trafficking in Persons," which was completed with the participation of regional Public Ministries and General Prosecutor's Offices. The General Prosecutors discussed ways to implement the report's suggestions.

1H. (U) EXTRADITIONS: The law provides for the extradition of foreign individuals residing in Costa Rica who are wanted in other countries for many crimes, including TIP. There were no requests for extraditions this year for that crime. According to Costa Rican laws, the extradition of its own nationals is prohibited (Article 3 of the Extradition Law). The government was not planning to modify its laws to permit extradition of its own nationals.

1J. (SBU) INVOLVEMENT OR TOLERANCE OF TIP BY GOCR OFFICIALS: The National Coalition reported that there were no cases of an official who was complicit in TIP crimes during the reporting period. No new information was available regarding a judicial investigation of one case reported in Ref C. Please see Ref D for a discussion of the 2008 Dominican case. According to Paniamor, the Paniamor/Save the Children Mapping meta-analysis (covering 2005-2007) detected official complicity, but no further information was available due to the confidential nature of the Mapping background data. Paniamor distributed the complete Mapping report to relevant government agencies. NGOs reported that police complicity is evident at the street level, where traffickers seemed pre-informed of police operations. Post has no further information to prove or to disprove the forgoing information.

1K. PROSTITUTION & PIMPING:

(1) (U) Prostitution is legal in Costa Rica. The legal minimum age to engage in prostitution is 18 years; Article 160 of the criminal

code prohibits remunerated sex with minors. The Ministry of Health is responsible for regulating hygiene/health matters related to those who are involved in prostitution. One observer told us, however, that there is a lack of regulation because many foreign prostitutes do not comply with check-ups.

(2) (U) Pandering ("proxenetismo") - promoting prostitution of persons, inducing them or recruiting them for this end - is criminalized by Article 169 of the criminal code with two to five years imprisonment. Article 170 of the criminal code defines aggravated pandering ("proxenetismo agravado") and establishes a punishment of four to 10 years imprisonment if the victim has not yet reached the age of 18. In Article 171, pimping ("rufianera") is punished with a penalty of imprisonment from two to eight years, with prison from four to 10 years if the victim is under the age of 13, and with prison from three to nine years if the victim is over 13, but has not reached the age of 18. Law No. 8590 dated July 18, 2007, increased the age of victims from 12 to 13 years.

1L. (U) INTERNATIONAL PEACEKEEPING EFFORTS: Costa Rica does not have a military and does not contribute troops to international peacekeeping efforts. TIP crimes have extraterritorial coverage (Articles 5-7 of the criminal code) if committed by members of the Costa Rican foreign service abroad.

1M. CHILD SEX TOURISM:

(1) (U) Authorities identified child sex tourism as a problem, with Costa Rica as a destination country. TIP crimes have extraterritorial coverage under Article 7 of the criminal code. The government and several advocacy groups continued awareness campaigns publicizing the dangers of sex tourism and its association with

child sexual exploitation. As of the end of 2008, approximately 240 tour companies had signed a conduct code as part of a global initiative against the commercial sexual exploitation of children, promoted by the World Tourism Organization and End Child Prostitution in Asian Tourism.

(2) (SBU) Previously, immigration officials identified the U.S., Canada, and Germany as the primary countries of origin for sex tourism (Ref C). The Paniamor/Save the Children Mapping project showed the main clients for child sexual exploitation and trafficking coming from the U.S., Sweden, Germany and Italy. According to Post's RSO, one U.S. Citizen was actively sought in Costa Rica for having had sex with a 12-year old female; he was located and arrested in Cuba and then returned to the U.S. No U.S. citizens were extradited from Costa Rica for crimes relating to child sexual exploitation during the reporting period.

IV. PROTECTION AND ASSISTANCE TO VICTIMS

1A. PROTECTION AFFORDED TO VICTIMS & WITNESSES:

(1) (U) The Victim and Witness Protection Act, passed in February 2009, provides new protections, including the creation of a Witness Protection Program. It remains to be seen, in practice, how effective the new law will be. A summary of key points of the legislation follow:

a. Legal protection to victims of crime and witnesses during the judicial process:

--establishes legal procedures to provide for victims and witness protection;

--establishes witness identity protection during the preliminary and intermediate stages of the judicial process;

--makes improvements to the Victim's Attention Office ("Oficina de Atencion a la victima") within the Prosecutor's Office, including funding for this office to provide assistance to victims of crime;

--creates a Witness Protection Program and Protection Teams ("Equipos de Proteccion"); and

--widens the options available to victims (psychological, legal and medical assistance; finding a job; migratory status and leaving the country; identity protection).

b. Right to information on developments of the case and right to confidentiality for victims and witnesses:

--ensures that victims have the information they need; and

--places greater restraints on information exempt from public disclosure and provides prison penalties from two to eight years and from six to twelve years for those who disclose such information.

c. Reforms to the Criminal Code and the Criminal Procedures Code:

--conciliation process is not available to the accused if he/she has utilized the conciliation process previously; and

--makes amendments regarding TIP to Article 172 of the criminal code (above).

END LEGISLATIVE SUMMARY.

(2) (U) Recognizing the need for an inter-institutional, integrated response to protect and assist victims, the National Coalition's Subcommittee on Protection developed a protocol for immediate victim assistance ("Modelo de Atencion Inmediata"), which seeks to identify whether a person is a TIP victim and to mobilize support for him/her immediately upon the first encounter with the victim (by Immigration police, for example), or upon receiving a "denuncia" (tip) about a potential victim (Ref A). The protocol, to be implemented by Executive Order, defines steps that governmental institutions will

take to detect, identify, protect and provide integrated assistance (medical treatment, physical security, psychological assistance, etc.) to a victim, with an aim of avoiding "re-victimization." It takes into account human rights principles, individual attention, internal and international trafficking, and it promotes an integrated response. (NOTE: G/TIP's Barbara Fleck has a copy of the complete protocol.)

(3) (U) Interestingly, the Immediate Attention protocol calls for a designated person from each of five Executive Branch agencies and two Judicial Branch agencies to be assigned to be on call for the Immediate Attention Team and to be given necessary resources to fulfill their duties on a 24/7 basis -- including computer access or a laptop, pager or cell phone, overtime pay, security, and access to transportation if necessary. The protocol also invites the participation of the International Organization for Migration, the UN Human Rights Commission, and the International Labor Organization throughout the process. In addition, PANI developed its own protocol to provide assistance to victims that may be identified as a result of the UNICEF/National Coalition's "No te Dejes Enganar" media campaign and is working on merging its internal protocol with the Coalition's.

(4) (U) UNICEF reported that the Ministry of Public Security is working with UNICEF to establish "Safe Places" for children in communities.

B & C. VICTIM CARE FACILITIES/SHELTERS:

(1) (SBU) The National Coalition's Immediate Attention protocol highlights access to adequate shelters as an important need. Currently, there are no specialized shelters dedicated solely to TIP victims (NOTE: see Ref C for a description of existing alternatives -- the INAMU shelter, the PANI shelter, and the Migration holding facility). Shelters do not discriminate between nationals and non-nationals, and the INAMU and PANI shelters provide integrated services to victims. As these shelters were operated by government institutions, their funding came from the GOCR budget, but exact figures for budgetary resources dedicated to TIP victims at these shelters were not available.

(2) (SBU) The government provided shelter and integrated services to at least two trafficking victims in 2008 at the National Institute for Women (INAMU) shelter (one case was the Guatemalan in Section I) for as long as was necessary. The Coalition recognizes that the security situation at both the INAMU and PANI shelters is not well-suited to protecting victims of organized crime. Currently, the only shelter alternative for adult males is the Migration deportation holding facility, which the Coalition knows is not ideal. The Coalition's Protection Subcommittee is studying ways to solve the shelter problem. In the meantime, the above shelter alternatives will have to be utilized for TIP victims on a case-by-case basis.

1D. (U) MIGRATORY RELIEF: Working with IOM and UNHCR, the GOCR granted refugee status to a TIP victim for the first time in 2008. Immigration Law 8487 grants some victims official resident status through the category of "special denouncers or witnesses in judicial or administrative processes." Costa Rica also has a "Protocol for Repatriation of Children and Adolescent Victims of Trafficking" signed by several government agencies in 2006 (Ref C). The government may issue special visas to victims of trafficking who are willing to assist in the prosecution of traffickers. If victims cooperate as witnesses, they can be granted a special legal status determined by the court (Ref C). Victims are also allowed to file civil suits against traffickers.

E & F. (U) LONG-TERM SHELTER/HOUSING BENEFITS: The GOCR does not provide long-term shelter or housing benefits specifically to TIP

victims. The National Coalition may refer cases to NGOs such as the Rahab Foundation for assistance with restoration and rebuilding their lives.

1G. (SBU) TOTAL NUMBER OF TRAFFICKING VICTIMS/ SHELTERING/ GOCR-FUNDED ASSISTANCE: As noted above, IOM reported four known victims during the reporting period. The Coalition was working with approximately 30 possible trafficking victims (including IOM's four)

during the reporting period. The judicial branch, through the Coalition, reported five cases. OIJ reported two TIP cases under investigation (including the Dominican case), involving multiple potential victims (Ref D). Two victims were sheltered by INAMU during the reporting period, using GOCR budgetary resources.

H. (U) IDENTIFYING TIP VICTIMS: The Immediate Assistance Protocol is a formal mechanism on which police (including Migration Police) can rely; they can activate the Immediate Assistance Team in the case of suspected or potential victims in a round-up, for example. The authorities have inspected known establishments but they normally concentrate on (and deport) immigration law violators. However, the National Coalition has focused training on Immigration Police (facilitated by the fact that the Immigration Police also fall within the purview of the Ministry of Public Security, which heads the National Coalition). Officers are being trained to be more sensitive to identifying potential victims among those detained. In addition, as part of training in conjunction with UNICEF (see Section III), 50 community police officers were trained during the reporting period to serve a preventive role in terms of TIP in their communities.

I. (U) RIGHTS OF VICTIMS RESPECTED: The rights of trafficking victims are respected in general, in that they are not treated as criminals. The objective is to provide legal and psychological assistance, especially during depositions, to prevent re-victimization. However, in 2008, some victims were treated as illegal immigrants, or, in the case of the Dominicans, as parties to sham marriages. Current immigration law does not include a temporary parole for trafficking victims.

J. (SBU) VICTIM ASSISTANCE IN INVESTIGATIONS & TRIALS: The Judicial Branch has not provided statistics regarding the number of victims who have assisted in prosecutions during the reporting period to Post. Post will update septel if/when received. Legal redress is not impeded, per se. However, as a practical matter, victims are often hesitant to file "denuncias" (official complaints) to start an investigation. However, OIJ may begin an investigation without a denuncia, and NGOs may assist victims by filing denuncias on behalf of victims.

K. (U) DOES GOCR PROVIDE TRAINING IN IDENTIFYING VICTIMS? Yes. Please see preceding paragraphs.

L. (SBU) There are no programs in place to provide assistance to nationals repatriated as victims of trafficking. The Costa Rican victim that returned from Mexico (see Section I) was assisted primarily by IOM and returned to her family home.

M. (SBU) IOS & NGOS WORKING WITH VICTIMS: The primary international organization working with trafficking victims is IOM. UNHCR, ILO, and UNICEF are also heavily involved in anti-TIP efforts. NGOs include Save the Children (Sweden), Alianza por tus Derechos, and the Rahab Foundation. Local NGO Paniamor is mapping trafficking routes and also supporting the GOCR with a case-management and data collection system called SISCESCO (Ref A). The National Coalition reported that, in addition to the above agencies, it works with NGOs CIDEHUM (on migrant human rights) and DNI (on children's issues). In general, the government coordinates with the public and private sectors on anti-trafficking initiatives.

IV. PREVENTION

A. MEDIA CAMPAIGN:

(1) (U) In October 2008 the Ministry of Public Security, the National Coalition, UNICEF and PANI launched the media awareness campaign called "No te Dejes Enganar" (Don't let them lie to you) in Costa Rica. UNICEF developed the regional campaign with DOS/INL FY2006 funds. The campaign seeks to educate adolescents, families and communities about the risks and consequences of trafficking, with the above-mentioned complimentary community police training. It also encourages the public to report TIP suspicions to the 911 emergency line. The campaign includes TV ads, radio spots and "muppies" (posters); training materials for police, parents and teachers; and informative age-appropriate educational materials

geared toward adolescents.

(2) (SBU) The Coalition dedicated part of its FY2008 government

funding to the media campaign. PANI spent an additional \$25,000 of its FY2008 funds for ad placement. UNICEF hopes the campaign will reach half the Costa Rican population - about 2,000,000 people - over a six-month period. UNICEF also hopes to reach 15,000 adults and teenagers with materials distributed by community police officers that UNICEF trained in conjunction with the campaign (see Section III).

1B. (SBU) BORDER SCREENING FOR TIP VICTIMS, PREVENTION: As mentioned above, the National Coalition has trained Costa Rica's personnel assigned to both the northern and southern borders; has jointly trained border personnel with Nicaraguan and Panamanian officials; and has held joint workshops with officials from the two countries to compile data for the Mapping project. However, as noted in the above-mentioned Mapping, the borders remain porous, with more than 100 "blind spots" reported. The PANI exit permit required for minors to leave the country is a tool utilized by the government to monitor possible trafficking in minors.

1C. (U) IS THERE A MECHANISM FOR COORDINATION BETWEEN AGENCIES, INTERNALLY, INTERNATIONALLY, AND MULTILATERALLY? As noted, the organization in charge of coordinating national anti-trafficking efforts is the National Coalition, headed by one of the vice-ministers of Public Security. The Coalition includes representatives from various government ministries and agencies as well as observers from international organizations, NGOs, the judicial branch, the Ombudsman's Office and the Legislative Assembly. The Coalition participates with regional organizations, in multilateral fora, and in conferences.

1D. (U) NATIONAL PLAN OF ACTION THAT ADDRESSES TIP: The Coalition's National Plan against Trafficking in Persons 2008-2010 is included in the government's National Development Plan 2006-2010. The National Plan of Action against TIP addresses prevention; protection; victim assistance; sanctions; legislation; and public policies.

1E. (U) OTHER MEASURES: During the year, the government also took the follow steps to reduce the demand for commercialized sex in Costa Rica:

--PANI conducted 40 workshops with the tourism sector on the prevention of child sexual exploitation;

--the public University of Costa Rica (UCR) School of Psychology continued a study of the effects of child sexual exploitation on victims and called for stronger preventative and prosecutorial measures; and

--the National Commission to Combat the Commercial Sexual Exploitation of Children and Adolescents (CONACOE) and the ILO developed a training module on sexual exploitation.

Additionally, the NGO Alianza por tus Derechos, along with the British Embassy, published a booklet for children called "Learning to Say No is your Right."

1F. (U) MEASURES TAKEN TO REDUCE SEX TOURISM BY COSTA RICANS: Post is unaware of any GOCR measures to reduce sex tourism by Costa Rican nationals.

1G. (U) REQUIRED OF COUNTRIES INVOLVED IN PEACEKEEPING: Not applicable.

VI. BEST PRACTICES NOMINATION

12. (U) REGIONAL TIP CONFERENCE: In keeping with G/TIP's Recommended Long-Term Action Plan (Ref E) calling for more regional cooperative efforts, the GOCR hosted a regional conference of national anti-TIP Coalitions from November 10-12, 2008. Representatives attended from Mexico, Guatemala, Nicaragua, El Salvador, Honduras, Panama and the Dominican Republic. The International Organization for Migration

and the International Labor Organization made presentations regarding international agencies and resources fighting TIP, and country delegations gave "best practices" presentations regarding their respective efforts, including repatriation protocols. Complete minutes of the conference, including conference results/conclusions, were emailed to G/TIP's Fleck on February 13, 2009.

VII. TIP HERO NOMINATION

13. (U) Post nominated Mariliana Morales, founder and director of the Rahab Foundation, in Ref F.

EMBASSY POINTS OF CONTACT

14. (U) Until April 3, Cheryl Neely, Political Section, 506-2519-2256, neelycl@state.gov. After April 3, the contact is Tyler Sparks, 506-2519-2256, sparkstk@state.gov.

CIANCHETTE